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## **Helping Out at Tax Times**

By Anthony Perez Cassino

For the past few weeks my usual stack of junk mail has been supplemented with a steady stream of 2001 tax statements and forms, reminding me that the clock has begun ticking towards April 15. I admit that even though my taxes are relatively simple and I took a tax course in law school, I still hire an accountant to complete the forms. I found law school discussions concerning the concept of "basis" or "stepped-up basis" to be about as easy to follow as the rule against perpetuities.

Of course, the one tax concept that we all understand is an audit. The prospect of being audited may be one of life's most stressful experiences, so I can only imagine how daunting it would be if I had to do so without any professional assistance. But that is the exact situation that many low- and moderate-income taxpayers face when being audited by the Internal Revenue Service. With the push in recent years to move people from welfare to work, there are many new low-wage first-time filers, who are often automatically audited. Still others fail to file, file incorrectly or fail to take advantage of programs like the Earned Income Tax Credit.

### **Legal Clinics**

In an effort to redress this problem, the IRS has taken the unusual step of funding legal clinics that assist low-income taxpayers. Under the project, which was created as part of the IRS Restructuring and Reform Act of 1998, the IRS provides funding to programs that offer tax education and representation to low-income individuals. This may seem a little bit like supplying a rival army with ammunition, but in fact it is entirely consistent with the stated mission of the IRS. In a press release referring to the program, IRS Commissioner Charles O. Rossotti stated that the clinics mesh with the IRS mission statement of providing "America's taxpayers top quality service by helping them understand and meet their tax responsibilities by applying the tax law with integrity and fairness to all." He went on to say that "these clinics fill a critical need. They reach out to help people who frequently have nowhere else to turn for legal assistance on tax matters." A number of programs in New York that are funded by the IRS rely heavily on volunteer lawyers to serve clients, including The Brooklyn Low-Income Taxpayer Clinic of South Brooklyn Legal Services and the Low Income Taxpayer Clinic operated by The Legal Aid Society's Volunteer Division. These programs address a valid complaint by corporate tax lawyers that there are not enough opportunities for them to use their unique skills to help individuals on a pro bono basis. However, participation in a taxpayer clinic is not solely limited to tax experts since these programs provide extensive training and mentoring.

One of the most important services provided to clients of taxpayer clinics is assistance in seeking a refund under the Earned Income Tax Credit provisions. While every year brings a new round of partisan battles in Washington over the tax code, the EITC program is one proposal that satisfies a broad cross-section of the political spectrum. It is a vital income supplement and work incentive program targeted to low-income working families with children. It has been called the nation's most successful anti-poverty program, distributing over \$30 billion of assistance to almost 19 million families. Twenty-eight percent of the families that benefited from the program had incomes below \$10,000 and 60 percent were below \$20,000. In 1999, it lifted more than 4.8 million individuals out of poverty.

Despite all of its success, there are still many families who do not apply for the credit because of a lack of awareness. Ironically, for those who do apply, the EITC represents the fourth largest area for audits by the IRS. Both of these scenarios point to the importance of having professional assistance throughout this process, and to the vital role of the low-income taxpayer clinics. Although these clinics are relatively new, they have been well-received by volunteer lawyers who have been instrumental in establishing the programs.

This collaboration is noteworthy for at least two reasons: it is a model for future partnerships between the government and the private sector, and it is an example of some of the very diverse pro bono opportunities for lawyers that have been created in recent years. Unfortunately, during the past decade government funding for legal services for low-income Americans has declined at almost all levels. In the mid-1990's there was a concerted attempt in Congress to eliminate funding entirely for the Legal Services Corporation, a nationwide program dedicated to providing civil legal services to low-income Americans. Although the program continues to survive, its funding has been reduced by more than \$100 million. On the state level, funding from the Interest on Lawyer Account fund has decreased by half during the 1990's due to declining interest rates. The IRS should be commended for recognizing the importance and benefits of ensuring equal treatment for all taxpayers.

Just a few years ago, pro bono work usually meant litigation. Although litigation continues to be a leading pro bono activity, new projects have been created that tap into the multitude of expertise within the profession. There are pro bono programs that now partner with volunteer corporate lawyers to assist not-for-profits and micro-enterprises as well as on economic development projects. The taxpayer clinic is unique because it is one of the few opportunities for tax practitioners to assist individual taxpayers on a pro bono basis.

I cannot say that I am prepared to give up my aversion to the tax code, but the low-income taxpayer clinics are an innovative way for those who are comfortable with its provisions to help others in need. In the case of the Earned Income Tax Credit, it is also a rare opportunity to significantly enhance the living situation of a low-income family by obtaining funds rightfully due them. If you would like to get involved, please contact The

Brooklyn Low-Income Taxpayer Clinic of South Brooklyn Legal Services at (718) 237-5500 or the Low Income Taxpayer Clinic operated by The Legal Aid Society's Volunteer Division at (212) 426-3094.